

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALEXANDRA ROSARIO, ELIZABETH  
ORTIZ, and AMADOU CAMARA,

Plaintiffs,

v.

2022 EASTCHESTER, LLC, FRANK  
COTO, NOBORU TAKASHIMA,

Defendants.

20-Cv-09182 (SHS)

ORDER

SIDNEY H. STEIN, U.S. District Judge.

Plaintiffs moved for a default judgment under Fed. R. Civ. P. 55 on August 31, 2021. (ECF No. 25.) However, on June 29, two months prior to that, defendants' counsel had filed a notice of appearance. (ECF No. 20.) In addition, there is a strong public interest in cases being resolved on the merits rather than by default. Moreover, defendants have alleged meritorious defenses.

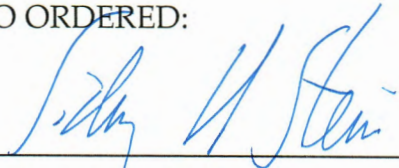
Two weeks after plaintiffs moved for a default judgment, on September 14, defendants moved to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(6) on the grounds that defendants' annual sales never met the \$500,000 threshold necessary for Fair Labor Standards Act enterprise coverage. (ECF No. 29.) In response, plaintiffs filed declarations supporting their position that the enterprise had annual gross volume of sales made or business done of not less than \$500,000. (ECF Nos. 31-33.)

A pretrial conference having been held today in Courtroom 23A of the U.S. Courthouse, 500 Pearl Street, New York, NY, IT IS HEREBY ORDERED that:

1. Plaintiffs' motion for a default judgment (ECF No. 25) is denied;
2. Defendants' motion to dismiss (ECF No. 29) is denied;
3. Plaintiffs are granted leave to amend their complaint on or before October 7;
4. Within 14 days after service of the amended complaint, defendants shall either answer or move in response;
5. There will be a pretrial conference on November 22, 2021 at 10:00 a.m. in Courtroom 23A. At the conference, the Court will set a discovery schedule;
6. This matter is referred to Court Annexed Mediation.

Dated: New York, New York  
September 23, 2021

SO ORDERED:

  
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Sidney H. Stein, U.S.D.J.